THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 13-09-2005

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WRIT PETITION No.19454 OF 2005

Between:

R.Nagaraju and another . . .Petitioners

And

They Hyderabad Metropolitan Water Supply

And Sewerage Board, Hyderabad, and another . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.19454 OF 2005

O R D E R:

The petitioners challenge a notice dated 27-08-2005 issued by the respondents ordering their eviction. It is stated that their father, by name Pentaiah purchased the property in question from one Mr. G.Ramachandra Reddy, through a sale deed dated 09-02-1981. It is also stated that they have developed the property and paid the municipal and other taxes from time to time. The petitioners contend that when they were issued a notice under the provisions of the Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1968, (for short "the Act") on 10-01-1994 and 06-09-1994, their father filed O.S.No.679 of 1994 in the Court of Principal Junior Civil Judge, Hyderabad. On dismissal of the said suit, he filed A.S.No.19 of 2002 in the Court of V Additional District Judge, Fast Track Court, Ranga Reddy District. The said appeal was also dismissed. They contend that even though the appeal is dismissed, they cannot be evicted without following the procedure prescribed by law. A contention is advanced to the effect that no notification was issued under the Act empowering the respondents to exercise the power under it.

Sri C.V.Bhaskar Reddy, the learned counsel for the petitioners submits that the fact that the suit filed by the father of the petitioners was dismissed, does not enable the respondents to evict the petitioners without following the procedure prescribed by law. He contends that the dismissal of the suit would only disable the petitioners from seeking the protection from the Court by way of an injunction, but does not authorize the public authorities to flout the law.

Ms.Venkateshwari, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the Hyderabad Metro Water Supply Act empowers various authorities of the department to protect the properties and to take necessary steps for that. She contends that once the suit filed for injunction was dismissed, they are not entitled to any protection, whatsoever.

It is stated that the father of the petitioners purchased the property in question from one Mr.G.Ramachandra Reddy. The respondents, in turn, issued notice under the Act requiring the petitioners to vacate the premises. Instead of pursuing the matter under the provisions of that Act, the petitioners filed a suit for injunction. The trial Court dismissed the suit holding that the respondents are the owners of the property and that the petitioners do not have any right of possession over it. The decree became final with the dismissal of the appeal filed against it. The result is that the petitioners were not entitled to protection from the Court. At this stage, it is, too late, for the petitioners to contend that the respondents do not have any powers under the Act. If the petitioners are serious about that contention, they could have assailed the notice issued to them way back in the year 1994 and pursued the remedies under the Act. Having lost in the suit filed by them, they cannot turn around and assert the right of possession over the property.

For the foregoing reasons, this Court is not inclined to grant any relief to the petitioners and the writ petition is accordingly dismissed. Having regard to the long possession of the petitioners over the property in question, three months time from today is granted for vacating the premises. On expiry of three months, it shall be open to the respondents to resume the possession of the petitioners without issuing any further notice.

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(L.NARASIMHA REDDY, J)

13th SEPTEMBER, 2005.

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